

JC10 Rec'd PCT/PTO

P3 OCT 2001

PATENT APPLICATION #9

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

David G. RICHARDS et al

Attn: PCT Legal Office

Appln. No.: 09/647,098

Group Art Unit: 0000

Filed: September 26, 2000

Examiner: Unknown

For: VACCINATION MODALITIES

RENEWED PETITION UNDER 37 C.F.R. § 1.47(a)

Commissioner for Patents
BOX PCT
Washington, D.C. 20231

RECEIVED

18 JAN 2002

Legal Staff
International Division

Sir:

This Renewed Petition is in response to the Decision on Petition dated August 3, 2001 in the above-identified application, for which response is due on or before October 3, 2001.

REMARKS

In the above-identified Decision, it is stated that Applicants' "Petition under 37 C.F.R. § 1.47(b)" filed May 2, 2001, has been dismissed without prejudice. Specifically, it is stated that while the Petition satisfied items (1) and (3)-(4) of 37 C.F.R. § 1.47(a), it does not satisfy item (2) of 37 C.F.R. § 1.47(a). That is, it is stated that Applicants have not demonstrated that a bona fide attempt was made to present a copy of the application papers (including specification, claims, drawings and oath or declaration) to Dr. Stewart for his signature. It is noted that the Petition states that the Declaration and Assignment forms were sent to Mr. Tinworth (see the Affidavit of Peter Stearne,

RENEWED PETITION

U.S. Appln. No. 09/647,098

paragraphs 12-13 and Exhibits PAS-9/10). However, it is contended that no evidence has been provided which indicates that a copy of the application papers were ever sent to Dr. Stewart for signature. As a result, it can not be reasonably concluded at the present time that Dr. Stewart refuses to join in the application.

Accordingly, Applicants submit herewith additional evidence demonstrating that a copy of the application papers (including the Preliminary Amendment filed May 2, 2001) were provided to Dr. Stewart for his signature, and that he refused to join in the application.

More specifically, Applicants submit herewith a Declaration from Dr. David Grant Richards, a co-inventor of the present application, and a Director of Eimeria Pty Ltd., a co-assignee of the present application. It is apparent from Dr. Richard's Declaration that the relevant U.S. application papers were sent to him by Bioproperties Pharmaceuticals Pty Ltd., and that he sent these documents to the other inventors (Dr. Jorgensen and Dr. Stewart) for signing (see Declaration, ¶6). Dr. Richards confirmed over the telephone, receipt of the relevant U.S. application papers by both Dr. Jorgensen and Dr. Stewart (see Declaration, ¶7). This demonstrates that the inventors received the relevant U.S. application papers. Further, Dr. Stewart told Dr. Richards that he would not sign the Declaration and Assignment (see Declaration, ¶7).

In view of the above-discussed additional evidence, Applicants hereby renew their Petition to proceed with prosecution of the above-identified application absent the

RENEWED PETITION

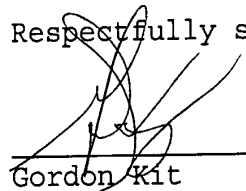
U.S. Appln. No. 09/647,098

signature of one of the joint inventors, i.e., Norman Porter Stewart, and request that said Petition be granted.

Favorable consideration is respectfully requested.

The Examiner is invited to contact the undersigned at his Washington telephone number on any questions which might arise.

Respectfully submitted,



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Date: October 3, 2001